Claims 1-14 were pending. With the cancellation of claims 1-14 and addition of claims 15-30, claims 15-30 are pending.

I. It is noted that the Examiner failed to send an initialed copy of the Information Disclosure Statement along with the Office Action to acknowledge that the Information Disclosure Statement has been considered. Applicant requests the Examiner to acknowledge the consideration of the Information Disclosure Statement.

II. Claims 1-14 were rejected as "use claims" which are not statutory subject matter under U.S. patent law. The rejection is rendered moot by the replacement of the "use" claims with method claims.

III. The Office Action objects to the absence of an Abstract on a separate sheet. Applicant submits a Substitute Abstract on a separate sheet attached. Withdrawal of the objection is respectfully requested.

IV. Claims 1 and 7 were rejected as being vague because of the term "erythropoietin-like activity". The Office Action asserts that the scope of the term is unclear. Applicant respectfully disagrees. However, to advance prosection, applicant replaces "a substance having erythropoietin-like activity" with "an erythropoietin derivative, erythropoietin mutant, or fragments thereof". Applicant submits that the term is not indefinite. Withdrawal of the rejection is respectfully requested.

V. Claims 1-13 were rejected as lacking adequate enablement. The Office Action asserts that one skilled in the art would not be able to identify without undue experimentation erythropoietin-like substances without some indication of the desired functional activity and some indication of conserved structure. With the replacement of "a substance having erythropoietin-like activity" with "an erythropoietin derivative, erythropoietin mutant, or fragments thereof", applicant submits that the methods of claims 15-30 are enabled. Page 3, the fourth paragraph, discloses that any erythropoietin derivative, erythropoietin mutant, or fragments thereof, that fulfill two criteria can be used in the present invention. The two criteria is that it is not immunogenic upon normal administration and it has an ameliorating effect on chronic inflammation. Page 3, lines 28 and 29 disclose that an example of the erythropoietin derivative or fragment that can be used is a non-human truncated form of mammalian erythropoietin meeting the two criteria. As a result, one skilled in the art would be able to determine whether a certain derivative, mutant or fragment of erythropoietin can be used with a reasonable amount of experimentation. Thus, to practice the methods claimed would not involve undue experimentation. Therefore, the claimed methods do not lack adequate enablement. It would not be necessary, as asserted by the Office Action to determine all the known and unknown functional activities of erythropoietin and then to determine which compounds had similar activities.

VI. Claims 1-13 were rejected as non enabled for failing to set forth definite steps. Applicant respectfully submits that the rejection is now moot because claims 15-

30 recite definite steps that would allow one skilled in the art to practice the claimed methods.

Conclusion

With the amendments and the discussion above, applicant submits that the application is in condition for allowance. Withdrawal of all objections and rejections is respectfully requested.

In case this paper is not timely filed, the undersigned hereby petitions for an appropriate extension of time. In the event that any fees are due in connection with this paper, please charge our Deposit Account No. 14-1060.

Respectfully submitted,
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Enclosures: Petition for Extension of Time;
Substitute Abstract

SUBSTITUTE ABSTRACT

A novel use of the known protein erythropoietin (EPO) and/or a derivative and/or a fragment thereof is disclosed. EPO is used as a pharmaceutical for the treatment of chronic inflammations. A particularly beneficial result is seen in patients suffering from rheumatoid arthritis (RA). Significant effects are seen in clinical variables such as morning stiffness, swollen joints, and the like.